



CBP CLARIFICATION OF "TARIFF STACKING" RULES AND REFUND OPPORTUNITY (May 16, 2025)

Yesterday U.S. Customs and Border Protection (CBP) issued CSMS #[65054270](#) with guidance on the “tariff stacking” Executive Order (EO) 14289, which was addressed in our April 30 [What's New](#) update. Additionally, a CBP [Notice](#) on the same topic that is scheduled for publication in the May 20 Federal Register has been posted for public inspection. The CBP Notice includes an Annex with changes to Harmonized Tariff Schedule of the United States (HTSUS) Chapter 99 classifications to give effect to the “tariff stacking” in Customs entries.

“Subject to” Guidance

EO 14289 established a hierarchy whereby if one of the specified additional tariff actions is applicable (i.e., Section 232 Automobiles/Auto Parts, IEEPA Canada, IEEPA Mexico, Section 232 Aluminum, Section 232 Steel), then the other specified additional tariff actions are inapplicable. Note that there is an exception to this logic for the Section 232 Aluminum and Section 232 Steel Tariffs, which can apply in addition to each other. I.e., they “stack.”

However, the EO used ambiguous language about the imported article being “subject to” tariffs under the additional tariff actions for it to be exempted from the application of the other additional tariff actions.

CBP’s guidance clarifies that “subject to” tariffs means that tariffs are actually owed under the additional tariff action. (I.e., “duty more than 0% is owed under the tariff action.”) The CBP updated guidance also specifies how this applies to each of the additional tariff actions when considering articles that qualify for preferential treatment under the U.S.-Mexico-Canada Agreement (USMCA):

- For the Section 232 Automotive Tariffs, CBP’s guidance states that automobiles or auto parts that qualify for preferential treatment under USMCA are NOT “subject to” the Section 232 Automotive Tariffs.
- For the IEEPA Canada and IEEPA Mexico Tariffs, CBP’s guidance states that articles that qualify for preferential tariff treatment under USMCA are NOT “subject to” the IEEPA Canada or IEEPA Mexico tariffs.

The CBP Notice further clarifies that such USMCA-qualified articles are subject to the Section 232 Aluminum Tariffs and Section 232 Steel Tariffs, as applicable, in addition to any other applicable tariffs.

Refunds of Previous Duty Payments

Clients should analyze their Customs entries to ensure that they did not “stack” additional tariffs when they were not applicable under this guidance and that they did not fail to pay all additional tariffs owed, and take appropriate action to correct entries as necessary.

The “tariff stacking” EO 14289 applies retroactively to articles entered for consumption, or withdrawn from warehouse for consumption, on or after March 4, 2025. The CBP Notice and CSMS guidance confirm that importers may file Post-Summary Corrections (PSCs) or Protests for refunds beginning May 16.

Clients should review their Customs Entry Summary filings in the ACE Portal to identify if multiple additional tariffs have been paid under the Section 232 Auto/Auto Parts Tariffs, IEEPA Canada/Mexico Tariffs, and Section 232 Steel or Aluminum Tariffs that are eligible for refunds. Contact [Brenda Zeller](#) for assistance in running ACE Portal reports for such analysis and to validate liquidation dates for purposes of filing PSCs or Protests seeking refunds.

Please contact [Marshall Miller](#), [Brian Murphy](#), [Sean Murray](#), or [David Ostheimer](#) with questions.

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Miller & Company P.C. | 4929 Main Street | Kansas City, MO 64112 US

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